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ABSTRACT

This is a guide designed to help parents file a formal administrative complaint to correct violations of Title I requirements when problems cannot be resolved through informal negotiations. The pamphlet serves as a reference to aid in determining whether a violation has occurred and if so, how to correct it. Provided in the guide are: (1) an overview of Title I legal requirements; (2) strategies for resolving problems and complaints; (3) information on how and where to file a complaint; and (4) a discussion of the legal requirements for resolving Title I complaints on the local, state and Federal levels. (APM)

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RESOLVING COMPLAINTS ABOUT TITLE I PROGRAMS

A GUIDE FOR PARENTS



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Title I of the Elementary and Secondary Education Act was amended by Congress in 1978. The new law, which is often referred to as P.L. 95-561, contains important provisions that strengthen the enforcement of Title I program requirements. One mechanism that helps improve enforcement is the increased responsibility of local school systems (LEAs), state educational agencies (SEAs), and the federal government (ED) to establish an administrative (outside of court) process for resolving parent and citizen complaints about the Title I program.

The Committee on Education and Labor of the U.S. House of Representatives, in its report on the Title I law, stressed the importance of a complaint process:

Because Title I is a program intended as a direct benefit to educationally deprived children, it is most appropriate that procedures be established whereby these beneficiaries may require the trustees of the funds to account for their actions. Since the beneficiaries are children, it is appropriate that the necessary procedures provide access to parents, parent councils, and others concerned with the proper protection of children's legal rights. (H.R. Rep. No. 95-1137, p.32)

This pamphlet is designed to help you file a complaint to correct violations of Title I requirements when problems cannot be resolved through informal negotiations with local or state school officials. Use this pamphlet as a reference to help you determine whether a violation has occurred, and if so, how to correct it by filing a formal administrative complaint.

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I. OVERVIEW OF THE LEGAL REQUIREMENTS

The Title I law requires that procedures for the prompt resolution of complaints be developed and implemented by LEAs (§128), SEAs (§168) and by the Department of Education (§184).^{*} These procedures must meet certain criteria prescribed by the Secretary of the U.S. Department of Education. The administrative complaint process under Title I gives parents, parent councils, and others the right to complain to (1) local, (2) state, or (3) federal officials about the administration of their Title I programs.

Congress clearly intended to establish a comprehensive system of procedures interlocking all levels -- local (LEA), state (SEA), and federal (ED). Although in the typical case, the complaint will begin with the LEA and if necessary be appealed next to the SEA, then to ED. This procedure is not required in all cases. A complaint may be filed directly with the SEA or ED, respectively. (See the Appendix for a more detailed description of the legal requirements for complaints and appeals under Title I.)

Before you actually file a complaint, there are several steps you should take and strategies you can consider. These are discussed in the next sections.

* The symbol § stands for "section" and the numbers refer to the section of the Title I law being discussed. We encourage you to become familiar with the sections of the law that we refer to in this pamphlet by looking them up and reading what they actually say. Ask your local school officials or the Title I Parent Advisory Council (PAC) for a copy of the law. Under §125(c) of the Title I law, local school officials must give a copy of the law and regulations to any Parent Advisory Council member who requests one. Also, each school and district level PAC must be given at least one copy of these documents.

II. STRATEGIES FOR RESOLVING PROBLEMS AND COMPLAINTS

The best strategy is the one which works for you. It should be as uncomplicated as possible while being logical and thorough. You must be persistent and have enough energy and patience to see the complaint through to a satisfactory resolution. It is always a good idea to outline the steps you need to take before you begin, and to decide exactly what you want to accomplish. If you are clear about what you want to achieve, you can avoid being innocently or intentionally sidetracked.

Most of the suggestions discussed in the next few pages are activities which you are entitled to pursue by virtue of being a PAC member or a Title I parent.

IS THERE A VIOLATION OF TITLE I?

Remember that looks are frequently deceptive; things are not always as they appear. It may appear that the Title I law or federal or state regulations have been violated when in fact they have not. On the other hand, violations may not be visible to one who makes only a brief and surface inspection of the program. It is vitally important to do your homework. Establish the facts and check them out thoroughly. In working out your strategy, be sure to allow enough time to investigate the facts thoroughly.

Many school district policies which Title I parents have thought to be violations of Title I law have proved not to be. You will want to try to figure out whether the issue you are concerned about, or the subject of the complaint you want to file is actually a violation of the Title I law or regulations. It may instead be a violation of state or local law,

or of a school board policy. Or it may not violate any policy or law at all, but be more a matter of poor educational practice or poor relations and communications with parents. Your strategy will depend upon the category into which your complaint or problem falls.

Ask school officials for copies of any information and documents you need in order to establish whether the Title I law has been violated. A thorough reading and understanding of project documents and the relevant sections of the law and regulations will help establish whether a violation exists.

WHAT IS THE VIOLATION?

Have you been given a copy of the Title I application and all other pertinent documents? Do you have access to project records? Have you had the opportunity to advise the LEA in the planning, implementation and evaluation of the Title I project? Is a training program for PAC members in effect? These are a few examples of the types of issues about which you may have complaints. You should try to define exactly what the violation is. Whenever possible, identify the sections of the law or regulations which have been violated. If your complaint is about a school or district policy that is inconsistent with the intent or spirit of either the Title I law or regulations, or with specific program objectives, you may also want to file a complaint challenging the policy. If you want certain policies or practices changed, suggest an alternative practice you think will improve the project.

WHO'S IN CHARGE OF RESOLVING COMPLAINTS?

The nature of your complaint may determine whom you need to talk with to bring about changes in the

program. Duties are assigned differently in different schools and districts. Find out which school official -- a teacher, the principal, Title I director or coordinator -- has the authority to respond to your particular complaint. If a lower level official is unable or unwilling to assist you, identify the next higher level person to talk with -- superintendent, school board members, etc.

INFORMAL RESOLUTION

Assessing Your Case. It is frequently possible and often better to resolve your complaint informally rather than file a formal complaint. You should conduct an assessment of the situation and decide how to proceed. The following is a list of criteria which you should consider in deciding whether to try to resolve the complaint informally before filing a formal complaint.

- Is there a violation of the Title I law or regulations?
- Is the PAC supportive of the complaint?
- Do you have support from parents or other groups in the community?
- Do you have cooperation of school officials?
- Do you have a history of and current good working relationship with your school officials?

If the answer to many of these questions is yes, then you can probably resolve your complaint informally. Consider all of your alternatives based on your investigation of the issue and the amount of cooperation you can expect in deciding whether you can settle your complaint informally. Unless you have a long history of noncooperation from local school officials, it is

probably a good idea to pursue an informal resolution of the complaint first. If these efforts fail, you will want to consider filing a formal complaint. When you file a formal complaint, you should include in your complaint letter the fact that you have attempted to resolve your complaint informally. The fact that you have attempted to resolve your complaint informally will probably aid you if a formal complaint becomes necessary.

Plan of Action. Carefully outline the steps you need to take and assign tasks to responsible members of the PAC or others who are working with you. Some PACs have a complaint or grievance committee to carry out these activities.

- Document all discussions, meetings, negotiations, etc. with school officials. In addition, you should always save copies of all communications from school officials, including program directives, policies, memoranda, relevant newsclippings, etc.

- Decide whether you need or want an attorney to assist you. This will not always be necessary but can often help in getting the complaint resolved more quickly. Find out if the Legal Services office in your area can represent you in negotiations with school officials. Many, but not all Legal Services offices have attorneys who work on Title I or other education matters. If Legal Services cannot assist you, secure other local counsel. The advantage of having local counsel is that he or she is readily available and can provide on-going assistance in your negotiations with local school officials.

- Discuss your concerns with other PAC members frequently and share information. You may want to call a few special meetings to discuss the status of the complaint and decide whether and how you want to continue your efforts to have it resolved.

Negotiating with School Officials. It is important to make the principal and the Title I director aware of your concerns and questions about the Title I project. If their information or understanding about the program is different than yours, ask them to provide you with documents that back up what they are telling you. When you meet with school officials, it is always a good idea to have at least one other PAC member with you as a witness to what was discussed in the meeting. Also, this will show broad support for the concerns you are raising. If you cannot arrange a meeting with the principal or Title I director, then make your request in a letter. Again, be sure to keep a copy of your letter and any written response received.

You will probably need to meet with school officials more than once. After each meeting, send a follow-up letter stating your understanding of what was discussed in the meeting and any agreements that were reached, including any deadlines for their implementation.

Continue to meet with school officials if you think you are making progress in resolving your complaint, but don't allow them to stall you with frequent or nonproductive meetings. You will need to decide whether or not the officials are sincerely trying to work with you to resolve your complaint or only paying lip service to your concerns. If you haven't made progress after a few meetings, you may want to re-think your strategy and consider filing a formal complaint.

Try to enlist the good will and cooperation of as many different groups as possible -- for instance, teachers, aides, school board members, PTA, other parents, and other organizations in the community -- and use these allies when necessary. Use your strength wisely and learn to determine when you need the assistance of your outside supporters and when you do not. It may be sufficient for school officials to know that you have the general support of parents and other groups

in addition to the support of the PAC. If so, you probably will not have to call upon other supporters every time an issue or conflict arises.

WHEN TO FILE A FORMAL COMPLAINT

If the informal process does not result in solving your problem, then you may want to file a formal complaint. Decide what it is you hope to gain and consider what you have to lose. Sometimes a formal complaint can cause hostility and make communications and cooperation between school officials and the PAC even worse.

On the other hand, if the violations are serious and go uncorrected and you have tried to resolve the complaint informally, you may have nothing to lose and everything to gain by filing a formal complaint. Your PAC should have an honest and full discussion of this matter before you proceed.

The federal complaint regulations require that you suggest in your complaint a remedy for the violations about which you are complaining. You will need to think through what would be an acceptable and legal resolution of the complaint. Be prepared to testify before the school officials if a hearing or formal meeting is scheduled as part of the local complaint resolution process. Also, be prepared to submit additional evidence backing up your allegation or complaint and know who is available to testify on your behalf.

FOLLOW THE COMPLAINT PROCEDURE

The LEA, SEA and the Department of Education are required by law to establish written complaint procedures and to disseminate them to the PAC and other parents. Obtain a copy of the procedures and read them carefully. Should you decide to file a complaint, be sure to follow the procedures exactly. This will avoid delay.

OBTAINING A COPY OF THE COMPLAINT PROCEDURES

In the past, during the course of providing assistance to Title I parents in resolving Title I complaints, the FEDERAL EDUCATION PROJECT discovered that many states either had not complied with the requirement to establish complaint procedures or had developed procedures that did not meet the standards of the federal law and regulations. It is therefore important, first of all, to make certain that your LEA and SEA have established adequate complaint procedures. It is crucial that each LEA and SEA comply with the complaint procedures and requirements, not only because compliance is a condition for receipt of Title I funds, but also because establishing fair and efficient procedures will help to insure prompt and fair resolution of problems and conflicts that may arise between parents and school officials at either the local or state level.

Although SEAs and LEAs are required by law to disseminate copies of their complaint procedures to school and district-level parent advisory councils, don't assume that the procedures do not exist just because a copy has not been given to your PAC. If your PAC does not have a copy of the procedures, you should write a letter to your local school officials (either your Title I coordinator or school superintendent) and state officials (again, either the state Title I coordinator or chief state school officer) requesting that a copy be sent to your PAC. In your letter, call attention to the requirement of the Title I law that these procedures be disseminated to PACs.

If you have confirmed that your local school district or state educational agency has not established such procedures, you will want to write a letter to LEA and SEA officials informing them that compliance with this requirement is a condition for receipt of Title I funds. You should request that the situation be corrected immediately and that the LEA or SEA respond to you promptly, in writing, indicating when the procedures will be developed and when and how they

will be disseminated. If the situation is not corrected, you should consider filing a complaint against the LEA and/or SEA for failing to establish complaint procedures.

HOW COMPLAINTS BRING ABOUT COMPLIANCE

Parents and parent advisory councils can use complaints to enforce compliance with the requirements of Title I. Typically, when a decision on a complaint determines that an LEA or SEA has violated any provision of Title I, the LEA or SEA is directed to correct the situation and come into immediate compliance. If the LEA or SEA refuses to comply, Title I funds can be withheld by the SEA (\$169) or ED (\$186). Furthermore, under §164(a) of Title I, before approving an LEA's application for funds, the SEA must be sure that the LEA will use the funds in a manner which meets the requirements of Title I. In order to make this determination the SEA must consider, among other factors, pending or unresolved administrative complaints filed by parents or other individuals concerning the LEA's compliance with Title I.

Details about how to use the Title I complaint procedures are discussed fully in section III of this pamphlet. Also, see the Appendix beginning on page 15 for a description of the provisions of the law and regulations for local, state and federal level procedures.

ADDITIONAL CONSIDERATIONS

While no one likes to lose, you should understand that it is always a possibility. Furthermore, a decision on an administrative complaint sometimes fails to fairly resolve the dispute, or the decision may resolve the issue in favor of the complainant or PAC, but fail to include corrective measures to remedy the problem. The SEA or the Education Department may

issue a decision concluding that your allegation was correct but fail to include specific enough directives to the LEA or SEA to ensure that the illegal practices will be corrected. Thus, if you do win your case, and there are no specific directives indicating how and when the problem you complained about will be corrected, be sure to follow up with a request that specific enforcement actions be taken to effectively correct the problem.

No matter what happens -- your activities will provide you with valuable information, both about the Title I project and about how the school system and school officials operate. You will know your adversaries and allies, as well as the necessary procedures if you should ever need to file a complaint in the future. Furthermore, the LEA, SEA and Department of Education will understand that you mean business. A complaint proceeding can, in addition to bringing about a satisfactory resolution of a Title I complaint, result in a new and improved working relationship with school officials.

III. HOW TO FILE A COMPLAINT

WHO MAY FILE A COMPLAINT?

The law allows parent advisory councils (PACs), individual parents, teachers, or other concerned organizations or individual to file complaints.

WHAT CAN BE COMPLAINED ABOUT?

A complaint can be made about any violation of the Title I law or regulations, or of provisions of the General Education Provisions Act that apply to Title I. Complaints are frequently filed regarding fiscal requirements such as supplanting or comparability, the designation of school attendance areas, the targeting of schools, selection of children to be served, requirements for design and implementation of Title I programs, as well as parental involvement. The following is a list of provisions under Title I which are often the subject of complaint against local school districts and state educational agencies.

1. Development and dissemination of complaint procedures (§128, §168);
2. Resolution of complaints in a timely fashion (§128, §168);
3. Establishment of parent advisory councils (§125(a));
4. Compliance with requirements for effective parental involvement (§124(j) and §125(b), (c), (d), and (e));
5. Dissemination to parents and PACs of Title I information, including

the following:

- a) A copy, free of charge, for each school and district level parent advisory council of the Title I law and regulations, and any state regulations or guidelines related to Title I; and copies of these Title I laws and regulations, free of charge, for individual council members upon their request (§125(c)(1)(A), (B) and (C));
- b) A copy for the district advisory council of any report resulting from state or federal auditing, monitoring, or evaluation activities in the school district (§125(c)(2); and
- c) Access by parents or parent advisory councils to the LEA's Title I application and any other documents related to Title I. (§127(c)) It is the FEDERAL EDUCATION PROJECT's opinion that §127(c) requires the LEA to make available the following documents related to Title I;

Prior Title I applications,

Current and prior evaluations,

Comparability reports and related worksheets, and

Financial records which fully disclose how the program has spent its Title I funds.

- 6. Use of Title I funds to supplement, not supplant local and state funds. (§126)

WHAT FORM IS REQUIRED?

A handwritten or typed letter, if possible, is all that is necessary to file a complaint. If the LEA, SEA, or ED develops a form or other procedure for filing complaints, then try to follow those procedures.

WHAT SHOULD THE COMPLAINT INCLUDE?

A complaint can be written in your own words but should include the following:

1. A brief statement that includes the most important facts of the situation about which you are complaining (where appropriate, describe your efforts to resolve the complaint informally);
2. Additional factual information, including any relevant correspondence, documents, state or local laws or policies which support your claims;
3. Reference to the Title I law or regulations, state or local regulations or guidelines being violated. If you do not know which requirement applies, then explain that you are not sure what specific requirement applies, but that to the best of your knowledge, the situation being complained of violates the Title I requirements;
4. Recommendations for a remedy or solution that you believe will resolve the situation; and

5. A request that the complaint be resolved within 30 days (60 days if it is a direct complaint or an appeal to the SEA or ED).

WHO SHOULD RECEIVE THE COMPLAINT?

The complaint letter or form should be sent to the LEA, SEA, or ED officials as required by the established procedures. If there are other local, state or federal officials whom you believe would be interested in the resolution of the complaint, send them a copy. In addition, send a copy to the FEDERAL EDUCATION PROJECT so that we can better monitor the Title I complaint process.

IV. APPENDIX

LEGAL REQUIREMENTS FOR RESOLVING TITLE I COMPLAINTS

LEA COMPLAINT RESOLUTION

(§128) [§§200.180 through 200.185].* School districts must develop and implement written procedures for the resolution of complaints from PACs, parents, teachers, or other concerned organizations or individuals. The procedures must include the items listed below:

1. Specific time limits for investigating and resolving complaints. The time limit must not exceed 30 days unless there are exceptional circumstances justifying and extension (§128(1)). The LEA must receive consent from the SEA for an extension of the 30-day time limit. Examples of factors that the SEA may consider in determining the existence of exceptional circumstances are;
 - a) The need for an investigation or audit to determine whether the claims in the complaint are accurate, and
 - b) A determination that complex issues are raised by the

* The section numbers which begin with §200 are references to the applicable section(s) of the January 19, 1981 Title I regulations. The effective date for this regulation was delayed until March 30, 1981 by the Reagan Administration's "freeze" on the implementation of federal regulations.

complaint [§200.184(b) (1)
and (2)];

2. An opportunity for a complainant or the complainant's representative, or both, to present evidence supporting the complaint and an opportunity for the complainant or the complainant's representative to question Title I officials, other parents, or anyone else who is involved (§128(2));
3. The right to appeal the LEA's decision on the complaint to the SEA within 30 days after receipt of the LEA's written decision (§200.185(b));
4. Mechanisms for the dissemination of information concerning the complaint procedures to all interested persons and organizations, including the district and all of the school parent advisory councils (§128(4)); and
5. Provisions for an on-site investigation if the SEA considers the investigation necessary (§200.183(b) (5)).

SEA COMPLAINT RESOLUTION

(§169) [§§200.185 through 200.188]. States must adopt written procedures for:

- Receiving complaints filed directly with the SEA, including standards for direct complaints which need not be filed first with an LEA;
- Reviewing appeals of decisions made by LEAs or state agencies on complaints; and
- Conducting on-site investigations.

The procedures must include:

1. Specific time limits for resolving the complaint or appeal and any necessary on-site investigation. The time limit for resolving the appeal or complaint must not exceed 60 days unless there are exceptional circumstances justifying an extension. (§168(1)). If the SEA determines it cannot accept a direct complaint, it may refer the complaint to the appropriate LEA or state agency for resolution within 30 days after it receives the complaint [§200.187(a)(2)];
2. An opportunity for the complainant, the complainant's representative, or both, and the LEA or the agency that is operating the Title I project to present relevant evidence about the complaint, including the opportunity to question the parties involved and any of their witnesses [§168(2) and §200.186(c)(3)];
3. The right to appeal the SEA's final decision on the complaint to the Assistant Secretary of the U.S. Department of Education within 30 days after receiving the SEA's written decision [§168(3) and §200.186(b)(2)]; and
4. Dissemination of information, free of charge, about those procedures to interested persons, including all Title I parent advisory councils of LEAs or state agencies operating Title I programs in the state [§168(4) and §200.186(b)(3)].

The SEA's final written resolution of an appeal or complaint must contain the following elements:

1. A summary of the facts on which the appeal or complaint is based;

2. A statement of the Title I requirements that the appeal or complaint alleges to have been violated;
3. The SEA's findings of fact and summary of the evidence that the SEA considered in making these findings;
4. The SEA's conclusions regarding the merits of each allegation in the complaint, and a summary of its reason for each conclusion;
5. The SEA's directive for any corrective action that the LEA or state agency must take and when that action must be taken; and
6. Notice of the procedures by which a party may exercise his or her right to appeal the SEA's final resolution to the Assistant Secretary of the U.S. Department of Education [§200.188].

FEDERAL COMPLAINT RESOLUTION

(§184) [§§200.240 through 200.243]. The Secretary of the Department of Education (ED) must develop and implement written procedures for receiving and resolving appeals from SEA final complaint resolutions. ED must also develop procedures for receiving complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals. In addition, ED must develop procedures for conducting independent on-site investigations of complaints as necessary. The procedures must include:

1. Specific time limits for resolving direct complaints or for completing the review of appeals and any necessary

independent investigation. This time limit must not exceed 60 days unless there are exceptional circumstances justifying an extension;

2. An opportunity for the complainant, the complainant's representative, the local educational agency and the state educational agency to present evidence supporting the complaint (§184(2));
3. A requirement that all parties, including the district advisory council and appropriate school advisory council, be notified in writing of how the appeal was resolved and the reasons it was resolved that way, and of their right to an administrative appeal. This written notification must be provided within 10 days after the resolution of the appeal (§184(3)) [§200.245(b)(3)]; and
4. Dissemination of information concerning the appeal procedures (§184(4)).

The federal complaint and appeal process provides an administrative forum to correct illegal practices of the LEA or SEA. You can file either a direct complaint or an appeal. A direct complaint is intended to be filed initially with the Department without first seeking relief from the LEA or SEA. Under the Title I regulations, the Department will take your complaint directly only under certain specified conditions. The first condition is where the information contained in the direct complaint shows that the delay in resolving the complaint caused by filing it at the LEA or SEA level first will result in serious and immediate harm to the complainant or program beneficiaries, and the information presented in the complaint shows that you are probably correct about your claims that the LEA or

SEA is engaged in an illegal practice. The Department also has the authority to take a complaint directly when it verifies your claim that the complaint has previously been filed with the LEA or SEA and that agency has failed to resolve the complaint within the required time frames. Furthermore, a direct complaint is appropriate where the SEA or LEA has implemented a policy or practice that violates a Title I requirement and the LEA, the SEA, or both have acknowledged this fact, but refuse or fail to correct the noncompliant practice. Finally, the Department has the discretion to take a direct complaint for any other reason it believes appropriate.

It is important to file a direct complaint if any of the circumstances described above exist. However, the Department is not likely to accept direct complaints routinely, but rather will strictly apply the standards for accepting direct complaints. In the typical case, the complaint must be filed at the LEA level first, and as necessary be appealed next to the SEA and ultimately to the Department. Most of the cases handled by the Department will be appeals from the SEA's final decision.

The resolution of complaints or appeals by the Department of Education includes a two-stage process consisting of the initial administrative resolution followed by a final decision on the complaint by the Assistant Secretary for Elementary and Secondary Education if the initial resolution is appealed. The Title I regulations require ED to issue an initial written decision concerning the complaint or the appeal within 60 days after it is received by the Department, unless there are exceptional circumstances that justify additional time. The decision must explain how the complaint or appeal has been resolved and why it was resolved that way. This decision and explanation must be sent to all parties involved in the complaint or appeal and state that if they are dissatisfied with the decision, they

have a right to file an administrative appeal within 30 days after receiving the written decision. Once the administrative appeal is filed, the Department has an additional 60 days to issue a written decision which is the final resolution of the complaint or appeal.

In other words, if you file a direct complaint or appeal with the Department, the initial decision must be issued within 60 days. If you are satisfied with the decision, and the LEA or SEA does not appeal, then the case is over and the LEA or SEA must come into compliance according to the terms of the decision. If you are dissatisfied with the decision, you can file an administrative appeal challenging the initial decision and requesting the Department to review the case and issue a final decision which will correct the problems about which you are complaining.

The specific procedures for complaint resolution by the Department are set out in §§200.240 through 200.248 of the proposed regulations published January 19, 1981. You should read them carefully to ensure that you understand the time limits and rules for filing a direct complaint or appeal.